

## Public Participation & Consensus Building

### THE FIRST STEP TO A “HEALTHY” PROCESS – ASSESS THE SITUATION

Imagine you're a doctor with the Centers for Disease Control, and you've just landed in St. Louis where a flu-like illness has killed 6 people and sent 30 more to local hospitals. Your job is to control the outbreak and, if possible, prevent more deaths. The minute you arrive, you order anti-viral drugs for anyone showing upper respiratory symptoms and you set up medical teams to inoculate the entire metro population with flu vaccine. Two weeks later, 20 more people have died and the outbreak is racing northeast across central Illinois, on direct course for Chicago. What's gone wrong?

Dispute resolution professionals don't typically deal with such alarming medical emergencies, but like doctors they must be master diagnosticians if they hope to see favorable results. Designing a public participation or dispute resolution process and convening the stakeholders without first understanding the problem and people's needs and interests is akin to treating an illness before

**HEALTHY PROCESS** (Continued on page 3)

## Education & Training

### MEETING THE NEEDS OF STATE GOVERNMENT

The Montana Consensus Council is a resource for all Montana citizens and communities, but because our mission is to help people resolve *public policy* issues, many of our projects involve state agencies. Since the Council's inception, we've worked with eight Montana agencies, including Commerce; Corrections; Environmental Quality; Fish, Wildlife & Parks; Livestock; Military Affairs; Natural Resources and Conservation; and Public Health and Human Services. Other state offices that have participated in forums coordinated by the Consensus Council include the Governor's Office; Legislative Environmental Quality Council, Montana Advocacy Program, and the Secretary of State's Office.

Back in the fall of 2000, we realized the time was ripe to solicit some feedback from agencies we had worked with in the past, and to develop new working relationships with agencies that had yet to use our services. We met individually with more than 20 division administrators and deputy directors at various state agencies to discuss

their needs and experiences with collaborative problem solving. Most voiced broad support for collaborative problem solving and suggested strategies for further integrating it into their agency operations. We relayed nine of these strategies in a November 2000 memorandum to Governor Judy Martz, which also described the benefits and barriers to the use of collaborative problem solving.

One of the strategies we tried was to bring division administrators together in an informal forum to share experiences, explore the needs and opportunities for improving collaboration in state government, identify best practices, and help each other design and coordinate effective public processes. About 18 administrators participated in the first forum in May 2001, and they agreed to report back to their agency directors. To capture the momentum from the meeting, the Governor issued a policy memorandum to clarify the administration's support of collaborative problem solving. It included a statement

**MEETING THE NEEDS** (Continued on page 7)

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## MCC BOARD WELCOMES NEW DIRECTORS

The board of the Montana Consensus Council met on February 13, 2002, at Carroll College in Helena to welcome nine new members. These seats on the board became open as previous members moved on in their professional lives or retired, including long-time members Don Snow, Monica Switzer, and chair, Mike Zimmerman. At the February meeting, the new board unanimously elected Anne Hedges as chair and Bob Keenan as vice chair.

We're pleased to introduce new members Representative Monica Lindeen; Jane Jelinski, Local Government Center, MSU; Leroy Not Afraid, spokesperson, Crow Tribal Council; Brad Powell, Region 1 Forester, U.S. Forest Service; Jon Sesso, Director of Planning, Butte; Peggy Trenk, Government Affairs Liaison, Montana Association of Realtors; Nelson Wert, Montana Farm Bureau; Sara van deWetering, policy analyst and writer; Mary Whittinghill, Montana Taxpayers Association. They join continuing board members: Anne Hedges, Montana Environmental Information Center; Senator Bob Keenan; Alan Rollo, Montana Wildlife Federation; and *ex officio* member Karl Ohs, Lt. Governor (who also served on the board during his tenure in the Montana Legislature).

## Research & Communication

Our web site now includes a "tool box" to help people understand and apply consensus-building principles to the issues they face. Go to [www.mcc.state.mt.us](http://www.mcc.state.mt.us) and click on "Tools." A pop-up menu leads to information on "Why Use Consensus Building," "When to Use Consensus Building," and "Is Our Public Process Successful?" Sub-links lead to a checklist on how to determine if consensus building is appropriate, a flow chart on how to conduct a situation assessment (see page 6 in this issue of *Confluence*), our Participant Satisfaction Scorecard, a list of consumer guides, and links to other helpful web sites.

We've also posted several recent articles on our web site, and others are available from other sources, including:

- "Working it Out Together: New Problem-solving Strategies Evolving Among States." In *State Government Magazine* (CSG) June-July 2002. (Available at [www.mcc.state.mt.us](http://www.mcc.state.mt.us).)
- "Land Use Planning and Growth Management in the American West." In *Land Lines*, January 2002. Reprinted in *The Western Planner*, April/May 2002, and *Montana Policy Review*, Winter 2002.

- "Regionalism in the West: An Inventory and Assessment." In *The Public Land and Resources Law Review*, forthcoming. (Available at [www.crmw.org](http://www.crmw.org).)
- "Public Participation in Environmental Decision Making: Is it Working?" In *National Civic Review*. Forthcoming 2002.
- "Meeting of the Minds." Article on consensus building, featuring the Montana Consensus Council, in *Governing Magazine* (February 2002) by Alan Ehrenhalt. (Available at [www.mcc.state.mt.us](http://www.mcc.state.mt.us).)

As part of our commitment to outreach and transferring lessons learned, Consensus Council staff and board members have also participated in a number of national meetings:

- International Association of Public Participation conference in Salt Lake City, UT, May 2002.
- Organization of Wildlife Planners conference in Seward, AK, May 2002.
- U.S. Institute for Environmental Conflict Resolution conference in Tucson, AZ, June 2002.
- Council of State Governments-WEST conference in Lake Tahoe, CA, July 2002.
- World Trade Center Public Dialogue in New York City, NY, July 2002.

you've identified its cause. (In the hypothetical case above, the culprit wasn't influenza but a virulent soil fungus carried on dry winds from recently tilled fields.) The basic principle here is timeless—Aristotle said most disputes could be deflated into a single paragraph if the disputants dared to define their terms.

To make an accurate diagnosis and define the terms of a dispute, we conduct what we call a situation assessment. When someone contacts the Montana Consensus Council to ask for our help in resolving a given issue, our first step (see the Phases of Consensus chart, page 6) is to review relevant documents and interview people representing the variety of perspectives surrounding that issue. Our objective at this point is to develop a common understanding of: (1) the substance of the problem; (2) who is affected by or interested in the problem; (3) their needs and interests; and (4) the costs and benefits associated with different processes for resolving the problem. The process follows the steps outlined in the flow chart on page 7.

We then report back to the people we interviewed, summarizing in constructive terms what they told us. Depending on the scope of the issue and the number of people involved, the reporting format may be a conference call, a 2-page memo, or a 20-page written report. If people agree that the issue needs to be addressed, the report will include our suggestions for designing a process that will satisfy the needs and interests of all affected parties. This step in the design stage is important because no single process can fit all situations. The information gathered during an assessment lets us tailor a process to match the situation—a key factor in designing any successful problem-solving process.

#### AN ASSESSMENT IN ACTION—WATER MANAGEMENT IN THE CLARK FORK RIVER BASIN

At the request of Governor Judy Martz, the Consensus Council recently completed a situation assessment on water management planning in the Clark Fork River basin in Montana. The effort was initiated after the 2001

Legislature passed House Bill 397, which authorized creation of a task force to prepare a water management plan for the river basin. HB 397 also set aside \$120,000 from the Resource Indemnity Trust to fund the project, but the money did not become available until July 1, 2002.

Working on a shoestring last spring, the Consensus Council mailed questionnaires to more than 130 individuals and organizations involved in water management in the basin. The questionnaire was designed to identify people's interests and concerns about water management in the basin and to determine who might be willing to participate on a Clark Fork River basin task force. We

also conducted interviews with key players around the basin. The number of interviews was limited due to initial funding constraints, but more than three-quarters of interviewees and questionnaire respondents agreed that there is a need for the task force and a basin-wide water management plan. People also suggested a laundry list of issues to be addressed in any subsequent water management planning process.

Based on these findings, and on the need to engage a broad representation of interests throughout the basin, the Consensus Council recommended a two-pronged approach for moving forward. The first is to convene a series of educational forums, and the second is to help interested parties in the Flathead basin above Flathead Lake to form a watershed council. We brought the interested parties together in Missoula, and after a day of discussion they agreed to form the task force. The 20 self-selected task force members and alternates represent a diversity of viewpoints, interests, and stakeholder groups. The met again July 23, 2002, to develop ground rules and a preliminary work plan. The group decided not to pursue creation of a watershed council above Flathead Lake. The task force will begin by building a common understanding of water availability and water rights in the basin, working toward submitting a water

*The information gathered during an assessment lets us tailor a process to match the situation.*

management plan for the Clark Fork basin to the Governor and Legislature in September 2004.

### **TAILORING THE PROCESS**

A situation assessment doesn't always lead to full-blown collaborative problem solving or consensus building. The issue at hand may not be ripe, or stakeholders may prefer to first try other avenues to address the situation.

For example, after successfully building and implementing an agreement on sanitation standards for subdivisions in Montana, participants in the working group decided they wanted to sustain a dialogue among all stakeholders on issues related to land use and growth in Montana. With the assistance of the Montana Consensus Council, they created the Montana Growth Policy Forum, designed not as a formal agreement-building process, but as an educational forum and policy dialogue—an opportunity to exchange ideas, examine policy options, and build a common understanding on land use and growth-related issues.

The Forum has met regularly since October 2000. Participants include builders and developers; realtors; city, county, and state governments; conservationists; advocates for smart growth; advocates for affordable housing; ranchers and farmers; other landowners; surveyors, engineers, and planners; contractors; and transportation interests. The Forum has evolved into a place where citizens and officials with diverse viewpoints can exchange ideas, seek input and advice from each other, and develop options to effectively respond to land use and growth in Montana.

In other situations, the Council's careful assessment has led in very different directions. In 2000, the Dillon Field Office of the U.S. Bureau of Land Management asked us to design a public participation process for its four-year resource management planning effort. Interviews with local, state, and national stakeholders, including the BLM, made it clear that people were leery of the enormous time commitment that would be required by a full-scale consensus building process overlapping the four-year planning effort. Instead, they wanted to participate in more focused bursts, targeting the issues that most affected their interests. With the help of the BLM and a coordinating committee of stakeholders, we designed a process to meet their needs, forming citizen "subgroups" under the Resource Advisory

Council to address single issues such as Wild and Scenic River designation and areas of critical environmental concern. The BLM is also relying on information fairs, an interactive web page, a newsletter, periodic mailings, and the media to encourage public participation as the planning effort moves forward.

In some cases, a situation assessment reveals reasons to steer away from formal negotiation. In February 2001, a state legislator asked the Consensus Council to assess the situation surrounding fees and funding for Montana's food safety inspection and education program. We interviewed stakeholders in six different interest categories and identified three core problems: inadequate funding for the program, confusion over state and local roles and responsibilities, and a lack of trust among many of the key players. Some interviewees said the funding issue was urgent, but others preferred to "let sleeping dogs lie" or to address funding through legislative action. And most people we talked to agreed that a dialogue on food safety issues would be premature given the state's financial predicament. In short, some people didn't feel compelled to address the issue, others believed they can better protect their interests by means other than a collaborative or consensus-based process, and most agreed that the time is not ripe due to the overall funding crisis. We reported these findings back to the interviewees, and then asked them to rank their level of comfort for six options available to the stakeholders: do nothing, draft legislation, draft administrative rules, form a working group to focus on one or two specific issues, pursue litigation, or develop a ballot initiative. Their responses are due July 31, 2002. In this case, the situation assessment helped to clarify the issues, people's interests and concerns, and the available options for moving forward. And the Consensus Council remains open to coordinating some form of work group or dialogue.

### **FOR MORE INFORMATION**

To learn more about situation assessments and collaborative problem solving, visit the Consensus Council's web site at [www.mcc.state.us](http://www.mcc.state.us) or contact the Council directly at (406) 444-4457. Copies of past situation assessments are available on request. We're also developing a handbook on designing collaborative problem solving processes, including best practices for conducting situation assessments, which is due out this winter.

## PHASES OF CONSENSUS BUILDING

### Phase I

#### Assess the Situation

- Is there a compelling issue that needs to be addressed?
- If the situation continues on its present course, how acceptable is the most likely outcome?
- Do all affected people believe they may get more from a collaborative process than from another method for addressing the situation?
- Are the decision makers committed to implementing any agreements that may emerge?

### Phase II

#### Design the Forum

##### Develop a Work Plan

- Define purpose.
- Clarify objectives, tasks, and products.
- Specify timelines and deadlines.

##### Define Ground Rules

- Identify participants.
- Define agreement.
- Clarify responsibilities to each other.
- Clarify responsibilities to constituents.
- Agree on meeting procedures and process coordination.
- Define procedures for communicating with the media and others.

### Phase III

#### Craft the Agreement

- Clarify people's interests.
- Build a common understanding of the situation.
- Generate options to accommodate all interests.
- Recognize the need for discussion away from the table.
- Avoid closure on single-issue agreements; focus on the total package.
- Agree to disagree when necessary.
- Ensure constituents are kept informed.
- Confirm agreements in writing.
- Ratify agreements with constituents.

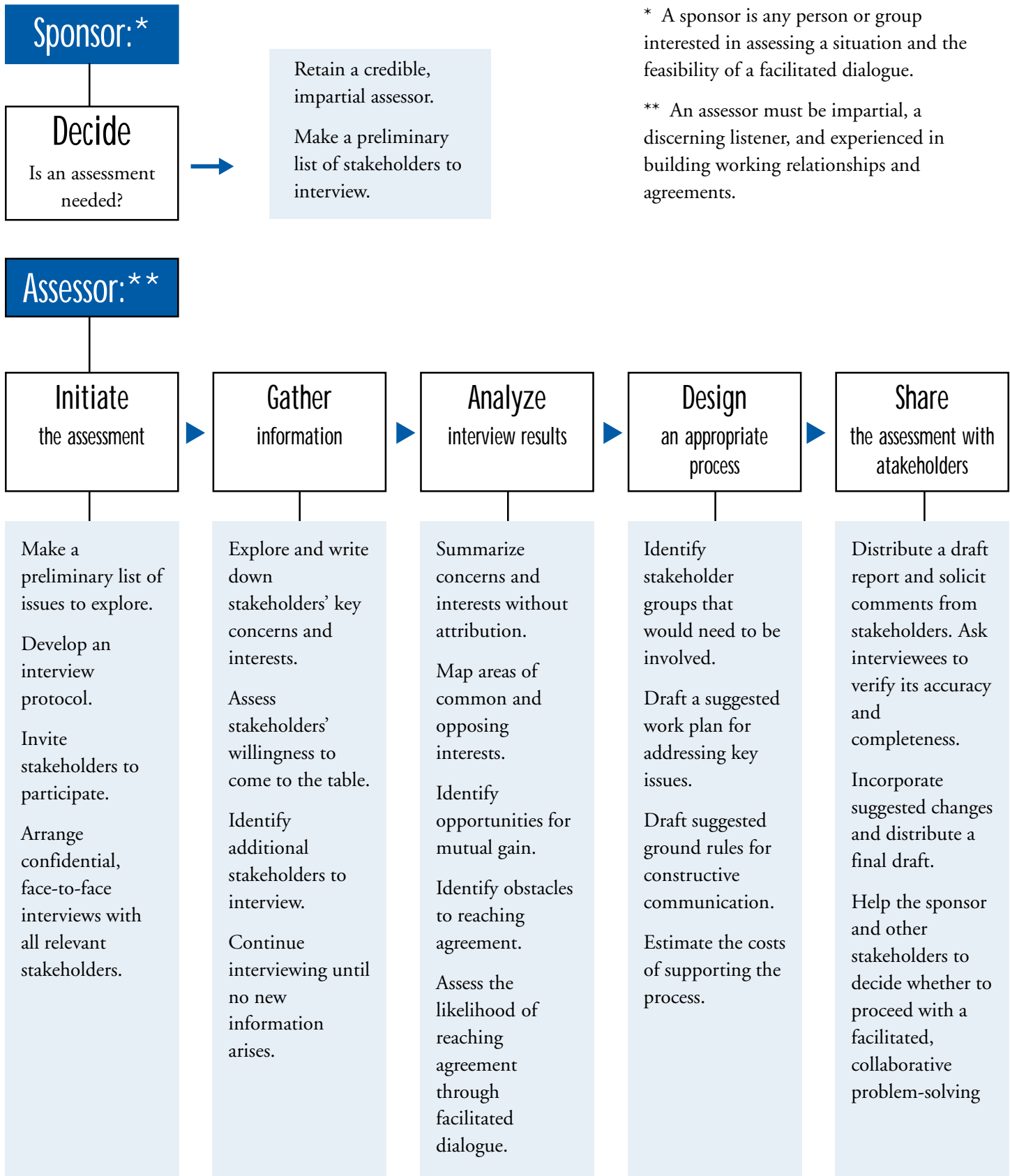
### Phase IV

#### Implement the Agreement

- Link informal agreements to a formal decision-making process.
- Clarify who is responsible for each implementation task.
- Develop a schedule for implementation.
- Jointly monitor implementation.
- Create a context for renegotiation.



# HOW TO CONDUCT A SITUATION ASSESSMENT



Adapted from "How to Conduct a Conflict Assessment" developed by the Consensus Building Institute, Inc., ©1998, and published in *CBI Reports*, Spring 1998.

asserting, “If we bring together people from the private and public sectors in constructive ways with good information, they will produce effective, sustainable solutions to the challenges and opportunities before us.”

### COST-EFFECTIVE CONSULTATIONS

At the Consensus Council, we realize that full-scale consensus building is not always the best answer to a problem. As a state agency ourselves, we’re also sensitive to the budget, staff, and time constraints other agencies often face. In response, **we offer a variety of ways to meet the needs of government officials, often at little to no cost**, and relying on cost-sharing when possible. Many agencies take advantage of the consultation service we offer, calling or meeting to get advice on process design, decision-making protocols, facilitation and dispute resolution strategies, etc. Recent examples of the types of services we can provide — in addition to consensus building — include:

- State Parks Futures Committee – We met with Fish, Wildlife & Parks staff to discuss process design and public participation and facilitation options, and offered to keep a meeting-by-meeting written record of the committee’s progress, which gradually took shape as the draft report to the Governor and Legislature. The committee met eight times in nine months in communities across the state to gather information, discuss the issues, and develop its recommendations to improve the state parks system.
- State/Tribal Governments Meeting – We interviewed leaders from eight tribal councils in Montana and the Governor’s Office, then facilitated a half-day meeting to explore ways to improve the structure, function, and effectiveness of the Office of Indian Affairs. The group will continue to meet on a quarterly basis, building on significant interest in implementing an improved government-to-government relationship.
- Poverty Reduction Project – With a grant from the Northwest Area Foundation, the Bear Paw Development Corporation contracted with the Consensus Council to facilitate a partnership of 10 north-central Montana counties and 3 tribal governments working to reduce poverty and support economic development. We helped the group develop ground rules, decision-making rules, and criteria for hiring a consultant.
- River Recreation Planning and Management – Fish, Wildlife & Parks continues to consult with us on the structure of the working group, process design, and the roles and responsibilities of the department, facilitator, and participants.

Call for one-on-one consultations and advice on public participation and collaborative problem solving strategies that will meet your agency’s needs and interests. Call Matt McKinney, Director, at 444-2075, or Nedra Chandler and Kathy van Hook, Project Coordinators, at 444-4457.

### SERVICES AND PROGRAMS TO ASSIST STATE AGENCIES

The Program on Public Dispute Resolution is a four-course seminar offered by the Montana Consensus Council and endorsed by state agencies and the Harvard MIT Public Disputes Program. The program is approved for graduate credits through the Masters of Public Administration Program at the University of Montana and Montana State University; continuing legal education credits through the State Bar of Montana; and teacher’s renewal credits through the Montana Office of Public Instruction. For a schedule of upcoming classes, see page 8.

You can subscribe to a periodic electronic newsletter, *Collaborative Leadership Strategies*, prepared jointly with the Consensus Building Institute and distributed to state agencies and others.

Check out the Montana Consensus Council web site, with resources on collaborative problem solving and links to other relevant sites. Visit us at [www.mcc.state.mt.us](http://www.mcc.state.mt.us).

Our ongoing Program on Public Dispute Resolution rolls into fall and winter with course offerings in Helena and Missoula. These courses provide a good opportunity to sharpen your public participation skills and learn new strategies for collaborative problem solving and consensus building. Academic and professional credit is available through the Montana university system, State Bar of Montana, and the Montana Office of Public instruction. Here's what participants had to say about our spring workshops:

### UPCOMING COURSES

**September 17, 2002 \_ Helena \$105**  
Public Participation Strategies

**October 17, 2002 \_ Helena \$105**  
Negotiation Skills for  
Multi-Party Public Disputes

**January 29, 2003 \_ Helena \$105**  
Facilitation and Mediation  
Skills for Multi-Party  
Public Disputes

**April 17-18, 2003 \_ Missoula \$175**  
Collaborative Problem-Solving  
and Consensus Building

For more information or to  
enroll, call the Montana  
Consensus Council at  
406-444-4457.

*"Good use of role playing. It did a lot for my confidence in my role as a facilitator/mediator."*

*"The course helped me to identify strengths and weaknesses in what I am doing now."*

*"Hands-on experience in the small groups was very helpful."*

*"The simulations were excellent and did a good job of illustrating the process."*

*"The workbook will be very helpful, including the list of resources."*

*"Excellent, high-energy instruction!"*

*"Case work and counseling on our own work was helpful and engaging."*

*"I realized that sometimes 'obstructionists' need to be listened to and affirmed."*

*"Good solid step-by-step methods to facilitate and mediate. Good handouts."*

*"Thanks for putting on a great consensus building workshop! I thought it was an excellent training session and I've already recommended it to others here in my section."*

### Regional Outreach

## REGIONAL STEWARDSHIP PROJECT

Throughout North America, there is a resurgence of interest in regional approaches to land use, natural resource, and environmental problems. In the West, regional efforts that transcend political and jurisdictional boundaries range in scale from communities and watersheds to multi-state and multi-national efforts. The scale of any given regional initiative goes beyond political and jurisdictional boundaries to the "natural territories" of the issues themselves, be they watersheds, bioregions, ecosystems, or economies. Today's regional efforts focus on a variety of issues related to water, wildlife, air quality, federal lands, land use and growth management, and economic development, and they are

driven by an array of missions, from research and education to community building, from advocacy to governance.

During the past year, the Consensus Council coordinated a team effort to document and support regional approaches to natural resources and other issues in the West. Our effort is part of a national project on regionalism coordinated by Dr. Charles Foster of the Kennedy School of Government at Harvard University. One of the objectives of the national project is to explore the possibility of creating a center of excellence to promote and support regional initiatives. Here in the



West, we're also focused on developing a research, education, and policy agenda to promote regional thinking and action. We surveyed 72 regional initiatives across the West and then convened a conference of regional practitioners in Salt Lake City in the fall of 2001.

Based on the survey and conference, the project is moving forward on two broad goals: (1) to build the capacity of regional practitioners to be as effective as possible; and (2) to build a constituency for regionalism. Survey respondents and conference participants identified four primary strategies for achieving these goals.

The first strategy is to sustain and expand the network of practitioners who convened in Salt Lake City. Participants suggested creating a listserv and a web site. They also said it would be helpful to document successful models of regionalism, and to develop training seminars on designing regional initiatives, managing regional organizations, and documenting strategies for collaborative problem solving.

The second strategy is research and communication. Practitioners agree that it would be valuable to gather, analyze, and redistribute information. They emphasized the need for additional research, case studies, and communication materials.

The third strategy is to provide education and training by convening seminars, workshops, and other educational programs. Based on the very successful model of the Lincoln Institute of Land Policy, this strategy might begin with a senior executive institute for existing practitioners. Practitioners suggested creating opportunities for peer consultation and advice on fund-raising, strategies for public participation and collaborative problem solving, and technical assistance and referrals to appropriate experts on other topics. They also suggested establishing a fellowship and/or mentoring program that would allow

practitioners, and perhaps members of their boards of directors, to spend time working with other regional practitioners. To complement the senior executive institute, practitioners asked for one or more skill-building courses to build the capacity of practitioners and the constituency for regional initiatives.

The fourth and final strategy is to build a constituency

*“The scale of any given regional initiative goes beyond political and jurisdictional boundaries to the “natural territories” of the issues themselves.”*

for regional thinking and action by working with policy makers and other officials within existing institutional arrangements. If regionalism is more than a supplement to existing institutions and systems for public decision-making—if it offers an alternative form of governance—then it is critical to raise awareness, understanding, and interest among existing decision makers and

other people who may be affected by regional approaches to policy and management.

Our first steps along these lines have been to document and publish the results of the work completed to date. Dr. Foster is taking the lead in preparing an article for *Land Lines* (the journal of the Lincoln Institute), and *The Public Land and Resources Law Review* is publishing the research completed by the Western Consensus Council on “Regionalism in the West: An Inventory and Assessment.” An electronic copy of the article and the inventory is currently available at [www.cmrw.org](http://www.cmrw.org).

The Lincoln Institute of Land Policy has agreed to sponsor an executive course for Regional Practitioners in the West, which will be convened by Armando Carbonell (Lincoln Institute) and Matthew McKinney (Montana Consensus Council), tentatively scheduled for March 27-28, 2003. The Lincoln Institute has also agreed to sponsor the development of a curriculum for a two-to three-day course on Strategies for Regional Stewardship in the fall of 2002.

Since the Consensus Council's inception in 1994, we've worked with Montanans on a wide array of issues, including recreational access to school trust lands, city and county planning, instream flow protection, the delivery of mental health services, improving the state parks system, siting energy facilities, liability apportionment for state superfund clean up, fisheries management, and state-tribal relations. Consensus building and collaborative problem solving have proved to be useful tools for resolving such specific issues, but agency staff, legislators, and other decision makers are typically faced with a "stream" of issues—a never-ending pattern of similar disputes and decisions.

Increasingly, people are looking for ways to move beyond addressing single issues on an ad hoc basis. Instead, we're finding more opportunities to design problem-solving systems that respond to the stream of disputes.

## WADING INTO THE "STREAM" OF ISSUES

Last year, for example, we helped the BLM Dillon Field Office in southwestern Montana coordinate a process for bringing the public into resource management planning at the earliest possible stage—surveying the public to determine how they wanted to participate *before* the planning effort even started. We also helped agencies and stakeholders build agreement on a systems approach to regulating sanitation standards in subdivisions, and worked with planners, engineers, developers, realtors, and open space advocates in Helena to improve the local subdivision review and permitting process. Agencies and decision makers can build understanding and trust, and reduce the stream of problems, by engaging other stakeholders in these kinds of "system design" efforts.

We're also helping agencies, legislators, and other policy makers instill their decision-making processes

with the key principles of collaboration. The most promising approaches are *inclusive*, *informed*, and *deliberative*. That is, they (1) meaningfully include all viewpoints and interests, (2) enable participants to share and jointly develop the best available information, and (3) engage participants in systematic, deliberative negotiation.

Our work is based on a simple "theory of change"—better processes result in better outcomes. We believe that reconciling interests through inclusive, informed, deliberative public processes is one of the most effective ways to promote—and govern—sustainable communities and resources. All of our programs and activities are designed around this theory. Call us for a free consultation if you'd like to explore ways to better manage your stream of issues and improve your organization's decision-making processes.